REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion and amendment, is respectfully requested.

Claims 11-20 are presently active, and Claim 11 is amended by the present amendment. Support for changes to Claim 11 is found in the specification at least on page 30, lines 9-24, and Figures 7 and 12-15. Thus, no new matter is added.

The outstanding Official Action rejected Claims 11-17 and 20 under 35 U.S.C. § 102(b) as unpatentable over the publication "Automated Performance Modeling from Scenarios and SDL Designs of Distributed Systems" to El-Sayed et al. (hereinafter El-Sayed); and rejected Claims 18 and 19 under 35 U.S.C. § 103(a) as unpatentable over El-Sayed in view of U.S. Patent No. 6,324,496 to Alur et al. (hereinafter Alur).

The Official Action has indicated the IDS filed March 14, 2005, has not been considered since no English translation for the cited documents AD and AK were provided. As pointed out in the previous response filed on January 31, 2007, when information listed on a Form 1449 is not in the English language, and English-language version of a search report noting the cited references may function as a statement of relevancy for the references.[1]

To the extent that the Official Action is taking the position that **both** a statement of relevancy and an English language translation of the underlined document are required in order to satisfy 37 C.F.R. § 1.98(c), this is clearly incorrect. For example, as explained in the portion of MPEP § 609 noted above,

> If no translation is submitted, the examiner **will consider the information** in view of the concise explanation an insofar as it is understood on face; e.g., drawings, chemical formulas, English language abstract, in the same manner that non-English language information in office search files is considered by examiners in conducting searches. (emphasis added)

---

[1] See MPEP § 609, page 600-129.

Accordingly, Applicants respectfully request that the Examiner initial references AD and AK in the next Communication.

Claim 11 is directed to a process for generating a performance model from a functional model for a system including a plurality of distributed hardware and software entities that engage to provide a service to at least one user, the process comprising distributing representative system requests in a finite number of groups and identifying, for each request group, a corresponding execution flow, the distributing of the requests being determined by a service being called upon and by characteristics of customer specific behavior, and the execution flow for each request group corresponding to a software entity execution linking, in sequence and/or in parallel, induced by a group request; formalizing the execution flows using a notation highlighting causal relationships between different software entities of the system that are involved in the execution flows and highlighting information quantifying the system's resource consumption; developing an intermediate model that comprises, in addition to the formalized execution flows, a resource specification that specifies physical hardware of the system, and an environment specification quantifying the amount of requests generated by said at least user; and automating conversion of the developed intermediate model into a performance model.

El-Sayed describes a performance model building process that takes an MSC model and generates a layer queuing network (LQN) performance model.[2] More specifically, El-Sayed describes taking an SDL specification including execution traces.[3] El-Sayed identifies messages from traces, different services provided by each process in the trace, and finds the precedence relationships between activities in each service.[4] More specifically, El-Sayed

---

[2] See El-Sayed at the Abstract.
[3] See El-Sayed at page 130.
[4] See El-Sayed, chapter 4.

describes taking an SDL specification including execution traces.[5] Finally, El-Sayed maps

the software architecture into an LQN model.[6]

Applicants submit that the claimed notation is to features. First, the notation allows

for identification of causal relationships between different software entities of the system that

are involved in the execution flows. The notation also allows for identification of

information quantifying the system's resource consumption.

Claim 11 is distinguishable over El-Sayed as the applied reference fails to disclose or

suggest formalizing the execution flow *using a notation highlighting information quantifying*

the system's resource consumption. El-Sayed merely describes using a message sequence

chart (MCE) that illustrates different processes, messages passed between the processes, and

computational activities that each process executes.[7] The computational activities depicted in

the MSC models of El-Sayed are not information *quantifying the system resource*

consumption because the computational activity merely indicates that a computation is taking

place. El-Sayed neither discloses nor suggests that the computational activity provides

information indicating how much of the system's resources are being consumed.

Accordingly, the message sequence charts illustrated in the figures of El-Sayed do not

highlight information quantifying the system's resource consumption.

Furthermore, although El-Sayed describes that information on resource functions is

introduced at the last step of the performance model,[8] El-Sayed does not disclose or suggest

that the information on the resource functions is used in formalizing the execution flows

using a notation highlighting information quantifying the system's resource consumption.

Thus, El-Sayed does not use a notation highlighting information identifying the system's

resource consumption.

---

[5] See El-Sayed at page 130.
[6] See El-Sayed at pages 132-133.
[7] See El-Sayed at Figures 4-7.
[8] See El-Sayed at chapter 5 and Figure 1.

Accordingly, Applicants submit that El-Sayed fails to disclose or suggest all the features of Claim 11. Thus, Applicants respectfully request that the rejection of Claim 11, and the claims depending therefrom, under 35 U.S.C. § 102(b) be withdrawn.

The outstanding Official Action rejected Claims 18 and 19 under 35 U.S.C. § 103(a) as unpatentable over El-Sayed in view of Alur. Applicants respectfully traverse the rejection.

As outlined above El-Sayed does not disclose all of the elements of amended Claim 11, which Claims 18 and 19 depend therefrom. As Alur does not remedy the deficiencies discussed above, Applicants respectfully submit that a *prima facie* case of obviousness has not been presented. Accordingly, Applicants respectfully request the rejection of Claims 18 and 19 under 35 U.S.C. § 103(a) be withdrawn.

Consequently, in view of the present amendment and response, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. A Notice of Allowance is earnestly solicited.
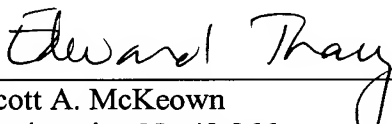
Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)
SAM:SP\la
I:\ATTY\SP\25's\259933US\259933US-RCE DUE 10-7-07.DOC

Scott A. McKeown
Registration No.42,866

Edward W. Tracy
Registration No. 47,998

8